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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,144	06/09/2005	Wieslaw Mieczyslaw Kazmierski	PU4962USw	1348

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EXAMINER	
GALLIS, DAVID E	

ART UNIT	PAPER NUMBER
1625	

NOTIFICATION DATE	DELIVERY MODE
06/11/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/538,144	KAZMIERSKI ET AL.	
	Examiner	Art Unit	
	DAVID E. GALLIS	1625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6/9/05*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-54* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-54* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

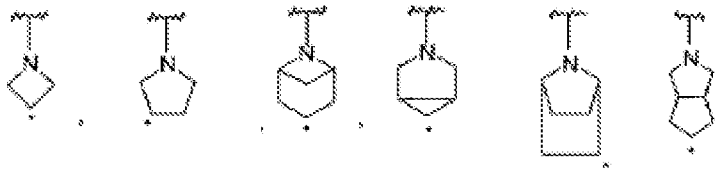
Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1 through 41, drawn to compounds of formula (I) and pharmaceutical compositions thereof, comprising a ring A functionality shown below from class 548 and various subclasses.

II. Claims 42 through 54, drawn to methods of antagonizing receptor activity and treating or preventing viral infections, diseases and disorders pulmonary disorder, chronic obstruction pulmonary disease, asthma, and producing bronchodilation by contacting a biological sample with or administering to a patient an effective amount of a compound of formula (I), comprising a ring A functionality shown below from class 548 and various subclasses.

Class 548
Rings A

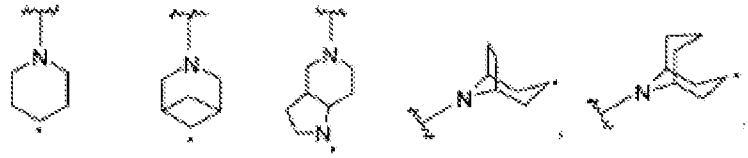


III. Claims 1 through 41, drawn to compounds of formula (I) and pharmaceutical compositions thereof, comprising a ring A functionality shown below from class 546 and various subclasses.

IV. Claims 42 through 54, drawn to methods of antagonizing receptor activity and treating or preventing viral infections, diseases and disorders pulmonary disorder, chronic obstruction pulmonary disease, asthma, and producing bronchodilation by contacting a biological sample with or

administering to a patient an effective amount of a compound of formula (I), comprising a ring A functionality shown below from class 546 and various subclasses.

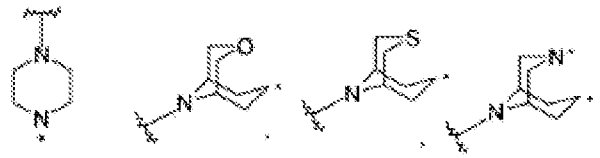
Class 546
Rings A



V. Claims 1 through 41, drawn to compounds of formula (I) and pharmaceutical compositions thereof, comprising a ring A functionality shown below from class 544 and various subclasses.

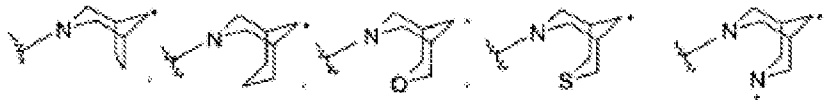
VI. Claims 42 through 54, drawn to methods of antagonizing receptor activity and treating or preventing viral infections, diseases and disorders pulmonary disorder, chronic obstruction pulmonary disease, asthma, and producing bronchodilation by contacting a biological sample with or administering to a patient an effective amount of a compound of formula (I), comprising a ring A functionality shown below from class 544 and various subclasses.

Class 544
Rings A



VII. Claims 1 through 41, drawn to compounds of formula (I) and pharmaceutical compositions thereof, comprising a ring A functionality shown below from class 540 and various subclasses.

VIII. Claims 42 through 54, drawn to methods of antagonizing receptor activity and treating or preventing viral infections, diseases and disorders pulmonary disorder, chronic obstruction pulmonary disease, asthma, and producing bronchodilation by contacting a biological sample with or administering to a patient an effective amount of a compound of formula (I), comprising a ring A functionality shown below from class 540 and various subclasses.

Class 540 Rings A 

IX. Claims 1 through 41, drawn to compounds of formula (I) and pharmaceutical compositions thereof, comprising a ring A functionality not included in the class 548, 546, 544 and 540 options of Groups I, III, V, and VII above. Selection of this Invention will require further restriction.

X. Claims 42 through 54, drawn to methods of antagonizing receptor activity and treating or preventing viral infections, diseases and disorders by contacting a biological sample with or administering to a patient an effective amount of a compound of formula (I), comprising a ring A functionality not included in the class 548, 546, 544 and 540 options of Groups II, IV, VI, and VIII above. Selection of this Invention will require further restriction.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I, III, V, VII, and IX are directed to related compounds. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed have materially different designs.

3. Inventions II, IV, VI, VIII, and X are directed to related methods of use. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed use compounds of materially different designs.

4. Inventions I, III, V, VII, IX, and II, IV, VI, VIII, X are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case, other classes of compounds are known to affect the CCR-5 receptor and have been used in the claimed treatments.

5. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above

and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected invention.**

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Gallis whose telephone number is 571-272-9068. The examiner can normally be reached on Mon-Thur 8:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on 571-272-1600. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David E. Gallis
Patent Examiner
/ Bernard Dentz/
Primary Examiner, Art Unit 1625